IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No.7610 of 2007
Date of Decision:18.05.2007

M/s Vardhman Textiles Limited, Ludhiana .....Petitioner

Vs.

Union of India and others .....Respondents

CORAM:- HON'BLE MR. JUSTICE M.M.KUMAR
HON'BLE MR. JUSTICE RAJESH BINDAL

Present:- Mr. Balbir Singh, Advocate for the petitioner.

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M.M.Kumar, J. (Oral)

This petition prays for quashing show cause notice dated 27.4.2007 (Annexure P.6A) issued by respondent No.3, namely, The Assistant Commissioner of Central Excise, Division, Hargobind Nagar, Phagwara.

In the earlier round of litigation, the matter has travelled upto Supreme Court and the Supreme Court while dismissing the Civil Appeal No.3450 of 2007 (Annexure P.9) filed by the revenue upheld the order of the Tribunal. There are observations made by their Lordships to the effect that the assessee would be entitled to refund, if any, in accordance with law. The impugned show cause notice has been issued after the passing of the order by Hon'ble the Supreme Court. It is admitted position that at no stage, the High Court was involved in the litigation because from the order of the Tribunal, appeal would directly lie there on the Hon'ble Supreme Court by virtue of provisions of Section 35L(b) of the Central Excise Act, 1944.

In view of the above, we do not wish to go into the various aspects especially when the contention of the counsel for the petitioner is that the show cause notice is in contravention to the observation made by Hon'ble the Supreme Court in its order dated 5.4.2007 (Annexure P.9). Therefore, we dismiss the petition with liberty to the petitioner to avail appropriate remedy.

(M.M.KUMAR)
JUDGE

May 18, 2007 **(RAJESH BINDAL)**
renu **JUDGE**